

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 96-1398

JAMES ARTHA DAVIS,

Plaintiff - Appellant,

versus

JANET RENO, Attorney General, U. S. Department
of Justice,

Defendant - Appellee.

Appeal from the United States District Court for the District of
Maryland, at Baltimore. J. Frederick Motz, Chief District Judge.
(CA-94-2755-JFM)

Submitted: January 23, 1997

Decided: January 31, 1997

Before RUSSELL, WILKINS, and WILLIAMS, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Henderson J. Brown IV, LAW OFFICES OF HENDERSON J. BROWN IV, Upper
Marlboro, Maryland, for Appellant. Lynne A. Battaglia, United
States Attorney, Odessa P. Jackson, Assistant United States
Attorney, Greenbelt, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

James Artha Davis appeals from the district court's order granting summary judgment for the Defendant on his Title VII claim alleging racial discrimination and retaliation. Specifically, Davis alleged that he was denied a promotion based upon impermissible considerations of race and national origin and that he suffered reprisals for bringing administrative complaints. Davis appeals the district court's order only as to the failure to promote claim. We affirm.

We find that the facts of this case are insufficient to prove Davis's failure to promote claim. Davis argues that the reasons advanced by his employer for failing to promote him were fabricated and not considered by the employer at the time of decision. This argument is without merit. Accordingly, we find that Davis is unable to prevail on his failure to promote claim. See Price Waterhouse v. Hopkins, 490 U.S. 228, 244-45 (1989) (providing standard for mixed motive analysis); see also McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973) (providing standard for prima facie case of discriminatory failure to hire or promote).

We therefore affirm the district court's grant of summary judgment for the Defendant. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED